

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

FAO No. 6611 of 2015 (O&M)

Date of decision: 07.04.2016

Sushila and others

... Appellants

versus

Mustaq and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Surinder Dagar, Advocate for the appellants.

K.Kannan, J. (ORAL)

CM No. 20610-CII of 2015

For the reasons mentioned in the application, duly supported by an affidavit, delay of 61 days in filing the appeal is condoned.

CM is disposed of.

FAO No. 6611 of 2015

The appeal is for further enhancement of claim to compensation for death of a person who is aged 53 years. The Court has taken the income proof as offered and applied the scales of compensation as provided in Sarla Verma Vs. Delhi Transport Corporation 2009 (3) RCR Civil 77 and as well as Rajesh and others Vs. Rajbir Singh and others 2013 (9) SCC 54. Particularly, 15% enhancement has also been considered for the person above the age of 50 years. The point made is that the Court has not considered the claim towards loss to estate and loss of expectation to life of deceased. The counsel refers to the decision in Kalpanaraj and others Vs. Tamil Nadu State Transport Corporation, 2015 (2) SCC 764.

What is possible for the Hon'ble Supreme Court to grant under the jurisdiction under Article 242 cannot be applied in all cases. The other heads of claim which are possible in death are provided under Schedule II which will act as a guide even for assessment to compensation for claims under Section 166. The loss to estate invariably means an accumulation to the estate that is possible by way of savings out of the amount which was reserved for the personal consumption and that which would fall for succession on the death of the person. This Court has had an occasion to consider the issue at length with reference to the judgments of the Supreme Court as well as the pronouncements of the House of Lords in Sanjeeda and other Vs. Sanjay Kumar in FAO No. 6803 of 2011 dated 11.01.2013. I am afraid, therefore, I may not be able to allow for any increase of heads which are not normally allowed in cases of death. I cannot reckon the decision of Supreme Court in Kalpanaraj's case (Supra) as laying down the law that in cases of death apart from the heads of claim which are permitted in Rajesh's case (Supra) and there can be a further provision made for loss of expectation of life @ Rs. 1,00,000/- and Rs. 1,00,000/- towards loss to estate. At best loss to estate is a conventional head and more so when the Court has also provided for 10% increase beyond the age of 50 for the person who was beyond the age of 50.

The assessment made at Rs.11, 63,200/- had addressed all the necessary heads of claim and I will not find it worthwhile to detain the case only for such a miniscule scope for increase.

The appeal is dismissed.

(K.KANNAN)
JUDGE

07.04.2016

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